


IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

LEY LEON HUGHES,  
Appellant,  
vs.  
HERMAN GENGLER,  
Appellee.

NO, 22122

ANSWER TO BRIEF FOR APPELLEE

REGISTERED NO. 11015		POSTMARK OF
Value \$ <i>10</i>	Special Delivery \$	
Reg. Fee \$ <i>.75</i>	Return Receipt \$ <i>10</i>	
Handling Charge \$	Restricted Delivery \$	
Postage \$ <i>.75</i>	<input checked="" type="checkbox"/> AIRMAIL	
POSTMASTER (By) <i>[Signature]</i>		
FROM	<i>Riley Leon Hughes</i>	
	<i>11015</i>	
TO	<i>Dept. of Justice</i>	
	<i>City of Oakland, Calif.</i>	
	<i>San Francisco, Calif.</i>	

POD Form 3806, Dec. 1965 RECEIPT FOR REGISTERED MAIL

FILED

SEP 26 1967

M. B. LUCK, CLERK

This certifies that 3 copies of this document have been led to the attorneys for the appellee.

*Riley Leon Hughes*  
RILEY LEON HUGHES



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vs. )  
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HERMAN GENGLER, )  
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APPELLEE. )

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ANSWER TO BRIEF FOR APPELLEE

JURISDICTION

There is at present, agreement, between appellant and appellee as noted in the opening BRIEFS, that the UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT has jurisdiction to judge the following arguments.

STATEMENT OF FACTS OF APPELLEE  
ANALYZED AND REBUFFED

No. 1 "Color of office", is mentioned. The "color" or respect inspired for an office is earned by the holder of such office through unselfish devotion to the duties of such office giving public service. Arrogant disregard for the rules and regulations attached to such office, gives an off color to such office.

No. 2 The letter is stamped Marysville May 30, 6 A.M.  
66. The May 31, 1966 date is incorrect.



No. 3 The employee made the observation that the letter was stamped, - Deficiency 3 cents. His determination that it was due and payable was in error.

No. 4 Plaintiff sought to convince the clerk of his error in his declaration, "I certainly am not getting SPECIAL DELIVERY SERVICE." The three (3¢) cents paid was to ransom a personal distress message.

No. 5 The clerk refused the delivery of what was obviously a distress message until he had taken the three (3¢) cents from me. This was coercion. If the letter had not been held up, I could have sent the sister who wrote the letter, money for transportation, so that she could be with our younger sister in her hours of suffering.

#### ANSWER TO ARGUMENT OF APPELLEE

The postmaster and the postal employees are guided in their conduct by the POSTAL MANUAL, and statutes passed by the Congress, particularly under TITLES 18, 28, and 39, and not by case law except as the above documents are interpreted by the courts.

The District Court and the defence are in error in seeking to judge this case by other than statutes passed by the Congress and postal regulations sanctioned by the Congress. (See reference 3, page 6 of BRIEF FOR APPELLANT.) However an equitable interpretation of such cases would be for the argument of the plaintiff.





The attorney for the defence seeks to convey the impression that the refusal to "pay the postage due" was determinative in the decision of the case *TEAL v. FELTON*, page three (3) of BRIEF OF APPELLEE. All of the Courts held that the "postage due" was an illegal charge. Paying the charge would not make it legal or irrecoverable. Other newspapers would be available upon the open market without charge for first class postage being attached. The suit was for the cost of one copy. There was no other copy of my sister's letter available. It was not an article of commerce.

In answer to the argument in appellee's Brief, last paragraph of page 3 and top of page 4, the plaintiff's argument is, that since the postal clerks acted in violation of the proceedings required by the POSTAL MANUAL, as described in BRIEF OF APPELLANT page 13 last paragraph, - positive evidence is given that the clerks were in error and therefore the postmaster was in error in upholding such violation.

A review of the first two cases in the appellee's BRIEF discloses that money paid under mistake was recovered on appeal in *AMERICAN OIL CO. INC. v. HOPE OIL CO.*, and in *MINNAH v. STEINMAN* money paid was recovered due to a mutual mistake with respect to the law.

In *HOLM v. BRAMWELL* the contractor Holm lost the money used to hire unlicensed contractors because, to have forced Bramwell to reimburse the contractor would have condoned an



professional act. The plaintiff's argument in this case is not similarly compromised.

In *McMILLAN v. O'BRIEN*, O'Brien sought to obtain property not belonging to him by paying taxes on it. When his effort failed he sought to recover the taxes from the owner. As there is no question as to the plaintiff's right to the letter, these cases are not comparable.

In *MOLNAR v. NATIONAL BROADCASTING CO.* 231 F2d 684, mention is made that the FEDERAL COURTS do not allow the practice of California courts permitting of the use of John D. Lee. If the plaintiff wishes to take action against the clerk he may take separate action against him.

In *PURE OIL CO. v. TUCKER*, Tucker, who was in debt to the PURE OIL CO., lost on appeal his effort to force the oil company to give to him savings that might have been made had the oil company transported gasoline by way of a pipe line which, at lesser rates comparable to railway rates had become available. Tucker's action was a speculative business venture, in search of profit. He was already getting gasoline at better rates than he could get at other jobbers. Performance and not rates are an issue in this case, and this case does not deal with a product sold for profit. See "FINDINGS OF THE CONGRESS 2301 of TITLE 39, (5)-- While the Postal establishment, as all other Government agencies, should be operated in an efficient manner, it clearly is not a business enterprise operated for profit or for the raising of funds.--- "



See Appellants MEMORANDA STATEMENT OF FACTS STIPULATIONS  
POINTS OF LAW page 2, begining with line 5.

The last case mentioned in the BRIEF FOR APPELLEE,  
THOMPSON v. THOMPSON; Mrs Lois Jaunita Thompson did not  
act upon advice that,- she get an attorney. The appellant  
asked that the government provide an attorney for him, as  
it is the appellant who is attempting to see that the laws  
of the Congress and the post office be upheld.

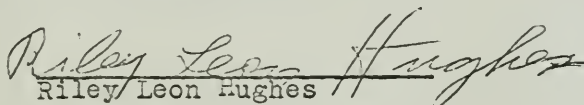
"Where Congress, in the proper and prudent exercise of  
its authority, has spoken, the Court of Appeals is bound.  
U.S. v. ONE 1950 BUICK SEDAN, C. A. Pa. 1956, 231 F2d 219"

(This reference was taken from U. S. Code Annotated,  
By West Publishing Co. under TITLE 28 §1291 page 254 3rd  
paragraph from the bottom right.)

#### CONCLUSION

For the foregoing reasons and for the protection of  
patrons of the postoffice, the appellant respectfully  
submits that the judgement of the DISTRICT COURT be reversed  
and a decision be made in keeping with the points in the  
conclusion of his BRIEF. (See BRIEF FOR APPELLANT begining  
at the bottom of page 17.)

Respectfully submitted,

  
Riley Leon Hughes  
Acting in propria persona  
as my attorney

